IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CIVIL ACTION
	:	
v.	:	
	:	
PREMISES KNOWN AS 6 TENBY COURT, WESTHAMPTON TOWNSHIP, BURLINGTON COUNTY, STATE OF NEW JERSEY	:	NO. 90-6610

M E M O R A N D U M

Ludwig, J. December 11, 1997

This memorandum accompanies an order entered this date denying Ifedoo Noble Enigwe's pro se motion for reconsideration of an order entered August 25, 1997. Fed. R. Civ. P. 59(e).

On February 6, 1991 a "Judgment by Default and Decree of Forfeiture" was entered against the above-captioned real estate.[1] On April 22, 1997 — more than six years after the forfeiture — Mr. Enigwe moved under Fed. R. Civ. P. 60(b)(1), (4) and (6) to set aside the default judgment.[2] The grounds for the motion were lack of in rem subject matter jurisdiction and lack of venue. Moreover,

[1] On November 20, 1990 Franklin Igbonwa pleaded guilty before Judge Gawthrop, of this court, to two counts of possession of heroin with intent to distribute. 28 U.S.C. § 841 (a)(1); United States v. Igbonwa, No. 90-CR-375-1. On September 20, 1995 Judge Gawthrop denied Igbonwa's motion for the return of the real estate. The Court of Appeals affirmed, USCA No. 95-1837 (3rd Cir. May 29, 1996).

[2] The motion was not timely under Rule 60(b)(1) in that it was filed more than a year after the judgment was entered.

Enigwe claimed that he — and not Igbonwa — was the real owner of the property.[3] On August 26, 1997, an order was entered denying the motion. Jurisdiction and venue were found to be proper under 28 U.S.C. § 1355 and 21 U.S.C. § 881(j), and movant's ownership claim was dismissed as frivolous.

"The purpose of a motion for reconsideration is to correct manifest errors or law or fact or to present newly discovered evidence." Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985); see also Smith v. City of Chester, 155 F.R.D. 95, 96-97 (E.D. Pa. 1994). Enigwe's motion reveals no manifest errors of law or fact; nor does it present any newly discovered evidence.

The motion for reconsideration does not re-assert the objections to in rem jurisdiction or venue.[4] Instead, it repeats

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[3] The Rule 60(b) motion referred to Enigwe as Igbonwa's first cousin. See motion to set aside judgment, at 1. It also cites Igbonwa's Presentence Report, where Igbonwa referred to Enigwe as his uncle. See id. at 3.

[4] According to the 1991 decree of forfeiture, notice of the proceeding was duly given, as follows:

> On October 9, 1990, a copy of the Complaint was personally served at the location of the said property and all interested parties were otherwise notified of the pendency of this action as is further specified in the Affidavit and attachments submitted with the plaintiff's Request for Entry of Default.
>
> Legal notice of this pending lawsuit was also given to all potential claimants known and unknown with respect to each item of defendant property by publication in accordance with Rule C(4) of the Supplemental Rules for Certain Admiralty and Maritime Claims, of the Federal Rules of Civil

(continued...)

the contention that there was no probable cause for the forfeiture because Igbonwa "was only a nominal owner, having contributed . . . $34,000 out of the entire $129,000." Motion for reconsideration, at 4.

"In determining whether probable cause exists for forfeiture, 'all that is required is that a court be able to look at the aggregate of the facts and find reasonable grounds to believe that the property probably was derived from drug transactions.'" United States v. A Parcel of Land, Buildings, Appurtenances and Improvements, Known as 92 Buena Vista Ave., Rumson, New Jersey, 937 F.2d 98, 104 (3d Cir. 1991) (quoting United States v. Parcels of Land, 903 F.2d 36, 38-39 (1st Cir. 1990)).

According to the motion for reconsideration, "[t]here is no record that shows Franklin Igbonwa to be the owner of the subject property." Id. at 1. That argument is factually misleading. The names as appear on the recorded deed are "Francis Igwe" and "Lazarus Mmadubuike Igwe." Complaint for forfeiture, exh. a. There is credible evidence that both of those names were aliases adopted by Franklin Igbonwa — who used at least 27

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[4](...continued)
Procedure, in the Burlington County Times on November 2, 9, and 16, 1990.

Judgment by default and decree of forfeiture, at 1-2 (Feb. 6, 1991).

Assuming that Enigwe had "control and dominion" over the property, as he asserts, see motion for reconsideration, at 4, he offers no explanation for not having contested the 1991 forfeiture action or for the six-year delay in making the present claim.

different aliases during the period from June 1989 to May 1990. See id. exh. c, affidavit of Special Agent Leonard Paccione, Jr., at ¶¶ 11(a), 12(e)-(f); see also affidavit of Assistant United States Attorney James H. Swain for entry of default, at ¶ 3. Igbonwa, under the alias of Francis Igwe, appears to have purchased the property — with 17 separate payments made by him or on his behalf from February to May 1990. See id. at ¶ 11(a). Five payments were cash amounts of $5,000, $5,000, $10,000, $14,000 and $2,200. See id. While the names Ifedo Enigwe, Noble Enigwe, and Dr. Ogo Ogbu were shown on several of the money orders used to purchase the property, all receipts were issued to "Francis Igwe." Id. at ¶ 12(a)-(b). The evidence in its entirety — including Igbonwa's guilty plea — provides "reasonable grounds to believe that [Igbonwa was the purchaser and] the property probably was derived from drug transactions," A Parcel of Land, Buildings, Appurtenances and Improvements, 937 F.2d at 104. The reconsideration motion does not point to any manifest error of law or fact justifying relief under Rule 59(e).[5]

Enigwe's motion does not present new evidence. The affidavit of Franklin Igbonwa filed on September 29, 1997 in support of the motion for reconsideration merely repeats Enigwe's claims in his Rule 60(b) motion, see motion to set aside judgment of forfeiture, at 2, and Igbonwa's assertions before Judge

[5] Nor are the "extraordinary circumstances" required for relief under Rule 60(b)(6) demonstrated. Sawka v. Healtheast, Inc., 989 F.2d 138, 140 (3d Cir. 1993).

Gawthrop, see Memorandum, Gawthrop, J., No. 94-5228, at 5 n.1 (July 11, 1995). "Where evidence is not newly discovered, a party may not submit that evidence in support of a motion for reconsideration." Harsco v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985).

No grounds exists for relief under Rule 59(e).

Edmund V. Ludwig, J.

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O R D E R

AND NOW, this 11th day of December, 1997, Ifedoo Noble Enigwe's pro se motion for reconsideration of the order of August 25, 1997, is denied. Fed. R. Civ. P. 59(e).

Edmund V. Ludwig, J.